

Brief on Sexual harassment at Work Place

Ten Keys points of guide lines by Supreme Court in Vishakha Judgment which form the basis of The Sexual Harassment of Women at Work Place (Prevention, Prohibition and Redressal) Act, 2013.

Given below are guidelines of the above POSH Act to be shared with the staff.

Sexual Harassment of women at work place (Prevention Protection and Redressal) Act 2013 is an act “to provide protection against sexual harassment of women at work place and for the prevention and redressal of complaints of sexual harassment”.

The brutal gang rape of a social worker in Rajasthan in 1997 brought to the attention of Supreme Court of India, the absence of domestic law occupying the field, to formulate effective measures to check evil of sexual harassment of working women at work place.

This resulted in India finally enacting its law on Prevention of Sexual Harassment against female employees at work place,

TEN KEY FEATURES OF VISHAKHA GUIDE LINES

1. The Law applies to women harassment in the work place, including women working as domestic worker, daily wage, temporary or permanent, full time or part time, as well as volunteers. The women may or may not be employed and can be of any age. The law is only applicable to women and women only.
2. Sexual Harassment includes any one or more of the following unwelcome acts or behavior:
 - a) Physical contact or advances.
 - b) A demand or request for sexual favours
 - c) Making sexually coloured remarks
 - d) Showing pornography
 - e) Any other unwelcome physical, verbal or nonverbal conduct of sexual nature.

Also if any following circumstances exist in relation to any behaviour that is, if any act is done under the following circumstances that would also count as sexual harassment ,

- i. Implied or explicit promise of preferential treatment in employment.
- ii. Implied or explicit threat of detrimental treatment in employment.
- iii. Implied or explicit threat about her present or future employment status.
- iv. Interferes with work or create an intimidating/hostile/offensive work environment.
- v. Humiliating treatment likely to affect her health and safety.

3. The acts of harassment can occur in the work place and also if a woman is harassed while visiting a place arising out of or during the course of employment including transportation provided by the office, a complaint can be filed under this Act.
4. The Act requires all work places to set up Internal Complaints Committee for each District where complaints can be filed. Internal Complaints Committee is now with amendment in May 2016 called Internal Committee. Different IC for different places should be constituted by the company.

Constitution of Internal complaints Committee.

- a. The committee shall consist of Presiding officer who shall be a woman a Senior level member of the organization.
 - b. Two other members committed to the cause of women.
 - c. One external member from a non-governmental organisation or a person familiar with issues related to Sexual Harassment.
 - d. At least half of the total members nominated shall be women.
 - e. This committee shall hold office for not more than three years.
5. An aggrieved woman can file a complaint within 3 months of the incident with list of witnesses and all supporting documents (or later if allowed by the Committee.) The Committee will send a copy of complaint filed by the aggrieved woman to the respondent within 7days of receiving the complaint. The respondent will file his reply with supporting documents within ten working days.
 6. The Act provides the option of a settlement between the aggrieved woman and the respondent through conciliation but only on the request of the woman. However, money compensation cannot be basis for the settlement.
 7. The inquiry has to be completed within 90 days.
 8. In case of malicious or complaints or false evidence, the Committee may take action against the woman. However, simply not being able to prove an allegation will not mean that it is a false /malicious complaint.
 9. The identity of the aggrieved woman, respondent, witness as well as other details of the Complaint cannot be published or disclosed to public media.
 10. The Act also hopes to prevent such incidents by placing a duty on employees to hold regular workshop/awareness programmes as well as, display the consequences of harassment in the workplace. Every employee has a duty to provide a safe working environment to all employees.